

# House File 2515 - Reprinted

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON TRANSPORTATION  
(SUCCESSOR TO HSB 153)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to obstructions in highways and providing  
2 penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 6528HV 81  
5 eg/je/5

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1 1 Section 1. NEW SECTION. 318.1 DEFINITIONS.  
1 2 As used in this chapter, unless the context otherwise  
1 3 requires:  
1 4 1. "Department" means the state department of  
1 5 transportation.  
1 6 2. "Highway authority" means the county board of  
1 7 supervisors, in the case of secondary roads, and the  
1 8 department, in the case of primary roads.  
1 9 3. "Highway right-of-way" means the total area of land,  
1 10 whether reserved by public ownership or easement, that is  
1 11 reserved for the operation and maintenance of a legally  
1 12 established public roadway. This area shall be deemed to  
1 13 consist of two portions, a central traveled way including the  
1 14 shoulders and that remainder on both sides of the road,  
1 15 between the outside shoulder edges and the outer boundaries of  
1 16 the right-of-way.  
1 17 4. "Obstruction" means an obstacle in the highway right=  
1 18 of-way, or an impediment or hindrance which impedes, opposes,  
1 19 or interferes with free passage along the highway right-of-way  
1 20 not including utility structures installed in accordance with  
1 21 an approved permit.  
1 22 5. "Traveled portion of the right-of-way" means that area  
1 23 of the highway right-of-way, not including the shoulders, on  
1 24 which vehicles normally travel.  
1 25 6. "Utility" means all private, public, municipal, or  
1 26 cooperative owned systems for water, sewer, natural gas,  
1 27 electric, telegraph, telephone, transit, pipeline, heating  
1 28 plants, railroads, bridges, street lights, or traffic control  
1 29 signals.  
1 30 7. "Utility structures" means the aboveground devices,  
1 31 required by a utility, including poles, lines, and wires, used  
1 32 for telephone, electric, natural gas, and other distribution  
1 33 or transmission purposes, and natural gas and electrical  
1 34 substations.  
1 35 Sec. 2. NEW SECTION. 318.2 PURPOSE.  
2 1 The purpose of this chapter is to enhance public safety for  
2 2 those traveling the public roads and allow economical  
2 3 maintenance of highway rights-of-way.  
2 4 Sec. 3. NEW SECTION. 318.3 OBSTRUCTIONS IN HIGHWAY  
2 5 RIGHT-OF-WAY.  
2 6 1. A person shall not place, or cause to be placed, an  
2 7 obstruction within any highway right-of-way. This prohibition  
2 8 includes, but is not limited to, the following actions:  
2 9 a. The excavation, filling, or making of any physical  
2 10 changes to any part of the highway right-of-way, except as  
2 11 provided under section 318.8.  
2 12 b. The cultivation or growing of crops within the highway  
2 13 right-of-way.  
2 14 c. The destruction of plants placed within the highway  
2 15 right-of-way.  
2 16 d. The placing of fences or ditches within the highway  
2 17 right-of-way.  
2 18 e. The alteration of ditches, water breaks, or drainage

2 19 tiles within the highway right-of-way.  
2 20 f. The placement of trash, litter, debris, waste material,  
2 21 manure, rocks, crops or crop residue, brush, vehicles,  
2 22 machinery, or other items within the highway right-of-way.  
2 23 g. The placement of billboards, signs, or advertising  
2 24 devices within the highway right-of-way.  
2 25 h. The placement of any red reflector, or any object or  
2 26 other device which shall cause the effect of a red reflector  
2 27 on the highway right-of-way which is visible to passing  
2 28 motorists.  
2 29 2. The following actions shall not constitute an  
2 30 obstruction within a highway right-of-way:  
2 31 a. Mowing or harvesting grass within the highway right=  
2 32 of-way so long as the mowing or harvesting does not destroy  
2 33 the grass or other plants in the highway right-of-way and is  
2 34 not in violation of an integrated roadside vegetation  
2 35 management plan adopted pursuant to section 314.22.  
3 1 b. Any action by, or authorized by, the highway authority  
3 2 or the state of Iowa.  
3 3 Sec. 4. NEW SECTION. 318.4 DUTY OF HIGHWAY AUTHORITIES.  
3 4 The highway authority shall cause all obstructions in a  
3 5 highway right-of-way under its jurisdiction to be removed.  
3 6 All removals shall be without liability on the part of any  
3 7 officer ordering or effecting such removal.  
3 8 Sec. 5. NEW SECTION. 318.5 REMOVAL AND COST.  
3 9 1. An obstruction in a highway right-of-way which  
3 10 constitutes an immediate and dangerous hazard shall, without  
3 11 notice or liability in damages, be removed by the highway  
3 12 authority.  
3 13 2. An obstruction not constituting an immediate and  
3 14 dangerous hazard shall be removed by the highway authority  
3 15 without liability after forty-eight-hour notice served in the  
3 16 same manner in which an original notice is served, or in  
3 17 writing by certified mail, or in any other manner reasonably  
3 18 calculated to apprise the person responsible for the  
3 19 obstruction that the obstruction will be removed at the  
3 20 person's expense. The highway authority shall assess the  
3 21 removal cost.  
3 22 3. Upon removal of the obstruction, the highway authority  
3 23 may immediately send a statement of the cost to the person  
3 24 responsible for the obstruction. If within ten days after  
3 25 sending the statement the cost is not paid, the highway  
3 26 authority may institute legal proceedings to collect the cost  
3 27 of removal. The removal costs shall be assessed against the  
3 28 following persons, as applicable:  
3 29 a. The vehicle owner in the case of an abandoned vehicle.  
3 30 b. The abutting property owner in the case of a fence,  
3 31 other than a right-of-way line fence, or other temporary  
3 32 obstruction placed within the highway right-of-way by the  
3 33 owner or tenant of the abutting property.  
3 34 c. The owner or person responsible for placement of any  
3 35 other obstruction.  
4 1 Sec. 6. NEW SECTION. 318.6 PUBLIC NUISANCE.  
4 2 1. Any person who places, or causes to be placed, any  
4 3 obstruction in a highway right-of-way as prohibited under  
4 4 section 318.3 is deemed to have created a public nuisance  
4 5 punishable as provided in chapter 657.  
4 6 2. If a person is found guilty of placing an obstruction  
4 7 within a highway right-of-way, the court may, in addition to  
4 8 any fine imposed, or judgment for damages or costs for which a  
4 9 separate execution may issue, order that the obstruction be  
4 10 abated or removed at the expense of the defendant. The costs  
4 11 for abatement or removal of the obstruction may be entered as  
4 12 a personal judgment against the defendant or assessed against  
4 13 the property where the obstruction occurred, or both.  
4 14 Sec. 7. NEW SECTION. 318.7 INJUNCTION TO RESTRAIN  
4 15 OBSTRUCTIONS.  
4 16 A highway authority may maintain a suit in equity aided by  
4 17 injunction to restrain an obstruction in a highway right-of=  
4 18 way. In such actions, the highway authority may cause the  
4 19 legal boundary lines of the highway to be adjudicated provided  
4 20 all interested parties are impleaded.  
4 21 Sec. 8. NEW SECTION. 318.8 PERMIT REQUIRED.  
4 22 A person shall not excavate, fill, or make a physical  
4 23 change within a highway right-of-way without obtaining a  
4 24 permit from the applicable highway authority. At the request  
4 25 of a permittee, a modification may be granted in the  
4 26 discretion of the highway authority. Work performed under the  
4 27 permit shall be performed in conformity with the  
4 28 specifications prescribed by the highway authority. If the  
4 29 work does not conform to permit specifications, the person

4 30 shall be notified to make the conforming changes. If after  
4 31 twenty days the changes have not been made, the highway  
4 32 authority may make the necessary changes and immediately send  
4 33 a statement of the cost to the responsible person. If within  
4 34 thirty days after sending the statement the cost is not paid,  
4 35 the highway authority may institute legal proceedings to  
5 1 collect the cost of correction. A violation of the permit  
5 2 specifications shall be considered a violation of section  
5 3 318.3. A public utility subject to section 306A.3 is exempt  
5 4 from this section.

5 5 Sec. 9. NEW SECTION. 318.9 UTILITY STRUCTURES.

5 6 1. a. A utility structure in a highway right-of-way used  
5 7 for telephone, electric, natural gas, or other distribution or  
5 8 transmission purposes shall be removed by the owner or  
5 9 operator of the transmission lines upon written notice from  
5 10 the highway authority of not less than ninety days, to the  
5 11 owner and operator. The notice shall, with reasonable  
5 12 certainty, specify the utility structure to be removed, and  
5 13 shall be served in the same manner that original notices are  
5 14 required to be served. If the owner or operator of the  
5 15 transmission line is unable to remove the utility structure  
5 16 within the required time due to circumstances beyond the  
5 17 control of the owner or operator, the owner or operator shall  
5 18 file a request with the highway authority for an extension of  
5 19 time to complete the work.

5 20 b. If the owner or operator of a transmission line needs  
5 21 authorization from the utilities board or other governmental  
5 22 authority to relocate a utility structure or to obtain a new  
5 23 private easement right for relocation of the utility  
5 24 structure, the owner or operator shall request an extension of  
5 25 time within which to remove the utility structure. The  
5 26 highway authority shall grant an extension of time for at  
5 27 least ninety days following the date authorization is granted  
5 28 or the easement right is obtained.

5 29 2. Upon written application, the highway authority shall  
5 30 locate the construction of new telephone, electric, or  
5 31 transmission lines or parts of lines, including natural gas  
5 32 pipeline, for the roads within the highway authority's  
5 33 jurisdiction, subject to the jurisdiction of the utilities  
5 34 board under chapters 476, 478, and 479, as follows:

5 35 a. The county engineer, or the board of supervisors if a  
6 1 county engineer is not available, shall locate the lines for  
6 2 secondary roads.

6 3 b. The department shall locate the lines for primary  
6 4 roads.

6 5 3. The department and the county engineer, or the board of  
6 6 supervisors if a county engineer is not available, may  
6 7 designate the location of a utility structure within a highway  
6 8 right-of-way. A utility structure that is not properly  
6 9 located within the highway right-of-way shall be removed  
6 10 within a time prescribed to a designated location. If not so  
6 11 removed, the highway authority may remove the utility  
6 12 structure and recover costs as provided in section 318.5.

6 13 Sec. 10. NEW SECTION. 318.10 FENCES.

6 14 1. A fence which constitutes an immediate and dangerous  
6 15 hazard shall, without notice or liability in damages, be  
6 16 removed by the highway authority. In all other cases where a  
6 17 fence is an obstruction in a highway right-of-way, notice in  
6 18 writing of not less than thirty days shall be given to the  
6 19 owner, occupant, or agent of the land enclosed by the fence.

6 20 2. The notice shall, with reasonable certainty, specify  
6 21 the line to which the fences shall be removed, and shall be  
6 22 served in the same manner that original notices are required  
6 23 to be served, or in writing by certified mail, or in any other  
6 24 manner reasonably calculated to apprise the person responsible  
6 25 for the fence.

6 26 3. The department and the county engineer, or the board of  
6 27 supervisors if a county engineer is not available, may  
6 28 designate the location of a fence within a highway right-of-  
6 29 way. A fence that is not properly located within the highway  
6 30 right-of-way shall be removed within a time prescribed to a  
6 31 designated location. If not so removed, the highway authority  
6 32 may remove the fences and recover costs as provided in section  
6 33 318.5.

6 34 Sec. 11. NEW SECTION. 318.11 BILLBOARDS AND SIGNS.

6 35 1. No billboard or advertising sign or device, except a  
7 1 sign or device authorized by law or approved by the highway  
7 2 authority, shall be placed or erected upon a highway right-  
7 3 of-way.

7 4 2. A billboard or advertising sign, whether on public or  
7 5 private property, that obstructs the view of any portion of a

7 6 public highway or of a railway track making the use of the  
7 7 traveled portion of the right-of-way dangerous is a public  
7 8 nuisance and shall be abated. The person responsible for the  
7 9 erection and maintenance of the billboard or sign may be  
7 10 punished as provided in chapter 657.

7 11 Sec. 12. NEW SECTION. 318.12 ENFORCEMENT.

7 12 A highway authority shall enforce the provisions of this  
7 13 chapter by appropriate civil or criminal proceeding or by both  
7 14 such proceedings.

7 15 Sec. 13. Section 68A.406, subsection 2, paragraph a, Code  
7 16 Supplement 2005, is amended to read as follows:

7 17 a. Any property owned by the state or the governing body  
7 18 of a county, city, or other political subdivision of the  
7 19 state, including all property considered the public right-of=  
7 20 way. Upon a determination by the board that a sign has been  
7 21 improperly placed, the sign shall be removed by highway  
7 22 authorities as provided in section ~~319.13~~ 318.5, or by county  
7 23 or city law enforcement authorities in a manner consistent  
7 24 with section ~~319.13~~ 318.5.

7 25 Sec. 14. Section 306.46, subsection 1, Code Supplement  
7 26 2005, is amended to read as follows:

7 27 1. A public utility may construct, operate, repair, or  
7 28 maintain its utility facilities within a public road right=  
7 29 of-way. The location of new utility facilities shall comply  
7 30 with section ~~319.5~~ 318.9. A utility facility shall not be  
7 31 constructed or installed in a manner that causes interference  
7 32 with public use of the road.

7 33 Sec. 15. Section 306C.13, subsection 8, paragraph f, Code  
7 34 2005, is amended to read as follows:

7 35 f. Which do not comply with all applicable state or local  
8 1 laws, regulations and ordinances, including but not limited to  
8 2 zoning, building, and sign codes as locally interpreted and  
8 3 applied and enforced, or which violate chapter ~~319~~ 318;  
8 4 however, nothing in this division shall prevent or restrict  
8 5 county or local zoning authorities from making a determination  
8 6 of customary use concerning size, lighting, and spacing of  
8 7 advertising devices in zoned commercial or industrial adjacent  
8 8 areas, and such determinations will be accepted in lieu of the  
8 9 standards of this division. The provisions of this division  
8 10 shall not prevent or restrict county or local zoning  
8 11 authorities within their respective jurisdictions from  
8 12 establishing standards imposing controls stricter than those  
8 13 required by this division.

8 14 Sec. 16. Section 311.32, Code 2005, is amended to read as  
8 15 follows:

8 16 311.32 ADMINISTRATION AND MAINTENANCE OF ROADS.

8 17 Any road established by petition and any road improved by  
8 18 petition under this chapter shall be administered and  
8 19 maintained by the county under chapters 306, 309, 314, 317,  
8 20 and ~~319~~ 318. However, the fact that right-of-way is donated  
8 21 by property owners for the establishment of a road or a  
8 22 portion of the cost of a road improvement is paid by property  
8 23 owners under this chapter, does not preclude the board of  
8 24 supervisors from exercising its responsibility over these  
8 25 roads as secondary roads.

8 26 Sec. 17. Section 331.362, subsection 7, Code 2005, is  
8 27 amended to read as follows:

8 28 7. The board shall cause the removal of obstructions on  
8 29 the secondary roads, in accordance with chapter ~~319~~ 318.

8 30 Sec. 18. Section 331.756, subsection 57, Code Supplement  
8 31 2005, is amended to read as follows:

8 32 57. Commence legal proceedings to remove billboards and  
8 33 signs which constitute a public nuisance as provided in  
8 34 section ~~319.11~~ 318.11.

8 35 Sec. 19. Chapter 319, Code 2005, is repealed.

9 1 HF 2515

9 2 eg:nh/es/25